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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT CARLOS ALARCIA,

Defendant and Appellant.

G039164

(Super. Ct. No. 06HF0374)

ORDER MODIFYING OPINION  
AND DENYING PETITION FOR  
REHEARING; NO CHANGE IN  
JUDGMENT

It is ORDERED that the opinion filed herein on October 22, 2008, be modified as follows:

1. On page 4, of the first full paragraph delete the following sentences:

“The officers had set up video cameras to film suspects as they approached the door of the apartment where they believed the fictitious victim lived. Defendant’s image was not captured on the video, so he did not get as far as the apartment door.”

2. On page 10, delete the second full paragraph in its entirety. Add the following paragraph in its place: “The court expressed concern witnesses were possibly tainting the testimony of other witnesses. The court’s order included all witnesses for a limited portion of the trial. In all other respects, the trial was open to anyone from the public who wanted to observe it. Defendant has pointed to nothing to indicate the exclusion of any witnesses prejudiced him or resulted in a denial of his due process right

to a fair trial. Under the circumstances in this record, we conclude the court did not err when it ordered witnesses to leave the courtroom during the trial, but if it was error, the error was harmless beyond a reasonable doubt. (*Chapman v. California* (1967) U.S. 18; *In re Wagner* (1981) 119 Cal.App.3d 90.)”

The petition for rehearing is DENIED. This modification does not change the judgment.

MOORE, J.

WE CONCUR:

SILLS, P. J.

IKOLA, J.